

Message Text

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TO AMEMBASSY TOKYO

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SUBJ: ABCC NEGOTIATIONS

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1. BELOW IS THE DRAFT OF THE AGREEMENT FOR THE ABCC SUCCESSION ORGANIZATION WHICH WAS THE SUBJECT OF REF. WE WOULD APPRECIATE IT IF THE EMBASSY WOULD GO OVER THE DRAFT AND ADVISE US OF ANY DEFICIENCIES.

2. AFTER WE HAVE HAD TIME TO CONSIDER THE EMBASSY'S COMMENTS AND ANY FURTHER VIEWS ON PROVISIONS HERE, WE PLAN FOR THE EMBASSY TO PRESENT THE DRAFT TO GOJ AS THE BASIS FOR NEGOTIATIONS. DRAFT IS AS FOLLOWS:

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICAN AND THE GOVERNMENT OF JAPAN
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ON THE UNITED STATES-JAPAN BINATIONAL INSTITUTE
OF RADIOBIOLOGY

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND

THE GOVERNMENT OF JAPAN,

CONSCIOUS OF THE CONTRIBUTIONS WHICH HAVE BEEN MADE
BY THE ATOMIC BOMB CASUALTY COMMISSION SINCE 1947 THROUGH
ITS RESEARCH PROGRAM DEALING WITH THE PROBLEM OF RADIATION
HAZARDS,

BELIEVING THAT THE SCIENTIFIC RESULTS FROM SUCH A
RESEARCH PROGRAM WILL BE USEFUL FOR THE PROTECTION OF THE
HEALTH OF ALL MANKIND AND THAT IT IS IN THE INTEREST OF
MANKIND THAT THE PRESENT PROGRAM BE CONTINUED AND EXPANDED,

PERSUADED THAT COOPERATION BETWEEN NATIONS PROMOTES THE
SOCIAL AND ECONOMIC PROGRESS OF PEOPLES,

CONVINCED THAT THE TIME HAS COME FOR JOINT PARTICIPA
TION BY THE TWO GOVERNMENTS IN THE PROGRAM AND OF THE
DESIRABILITY OF ESTABLISHING A BINATIONAL MECHANISM FOR
THIS PURPOSE,

HAVE AGREED AS FOLLOWS:

ARTICLE I

ESTABLISHMENT

A. THERE IS HEREBY ESTABLISHED A UNITED STATES-JAPAN
BINATIONAL INSTITUTE OF RADIOBIOLOGY, HEREINAFTER CALLED
THE "INSTITUTE".

B. THE INSTITUTE SHALL BE LOCATED IN JAPAN, WITH
HEADQUARTERS IN HIROSHIMA, AND SHALL HAVE JURIDICAL PER-
SONALITY UNDER JAPANESE LAW.

C. THE INSTITUTE SHALL SUCCEED TO ALL RIGHTS AND
OBLIGATIONS OF THE ATOMIC BOMB CASUALTY COMMISSION (ABCC)
AS OF THE DATE OF ENTRY INTO FORCE OF THIS AGREEMENT.
THE INSTITUTE SHALL SUCCEED, INTER ALIA, TO THE TERMINATION
RESERVE AND TO THE TITLE TO ALL BUILDINGS, FACILITIES
AND QUIPMENT BELONGING TO THE TWO GOVERNMENTS.

D. THE PERSONNEL OF THE ABCC SHALL BECOME THE PERSONNEL
OF THE INSTITUTE.

ARTICLE II

OBJECTIVES AND PROGRAM

A. THE OBJECTIVES OF THE INSTITUTE SHALL BE, (1) TO
ENGAGE IN AND PROMOTE RESEARCH STUDIES, EXCLUSIVELY FOR
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PEACEFUL PURPOSES, TO ASCERTAIN THE EFFECTS OF IONIZING
RADIATION ON LIVING ORGANISMS, INCLUDING MAN, AND (2)
TO ENGAGE IN SUCH RESEARCH STUDIES, EXCLUSIVELY FOR PEACE-
FUL PURPOSES, AS MAY BE DEEMED SCIENTIFICALLY VALUABLE AND
FOR WHICH THE RESOURCES OF THE INSTITUTE ARE ESPECIALLY
SUITABLE AND WHICH ARE IN THE MUTUAL INTEREST OF BOTH
GOVERNMENTS.

B. THE CURRENT PROGRAM OF THE ABCC SHALL INITIALLY
BECOME THE PROGRAM OF THE INSTITUTE; PROVIDED, HOWEVER,
THE BOARD OF GOVERNORS REFERRED TO IN ARTICLE IV MAY BY
DECISION TERMINATE ANY OF THE CURRENT STUDIES OR APPROVE
ADDITIONAL STUDIES.

ARTICLE III

POWERS OF THE INSTITUTE

A. THE INSTITUTE SHALL HAVE ALL POWERS NECESSARY TO CARRY OUT THE OBJECTIVES OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE POWER TO:

- (1) ACQUIRE, HOLD, ADMINISTER AND DISPOSE OF REAL AND PERSONAL PROPERTY;
- (2) RECEIVE, HOLD AND DISBURSE FUNDS AND OPEN BANK ACCOUNTS;
- (3) MAKE CONTRACTS AND GRANTS;
- (4) SUE AND DEFEND SUITS;
- (5) EMPLOY PERSONNEL;
- (6) ACCEPT CONTRIBUTIONS OF PROPERTY, FUNDS OR SERVICES;

AND

(7) OBTAIN COPIES OF TRANSCRIPTS OF RELEVANT DEATH CERTIFICATES.

B. THE INSTITUTE SHALL BE SUBJECT TO SUIT BUT THE PROPERTY OF THE INSTITUTE SHALL NOT BE SUBJECT TO ATTACHMENT OR EXECUTION. THE OFFICERS AND PERSONNEL OF THE INSTITUTE SHALL BE IMMUNE FROM SUIT FOR ANY ACTION TAKEN BY THEM IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

ARTICLE IV

BOARD OF GOVERNORS

A. A BOARD OF GOVERNORS, HEREINAFTER CALLED THE "BOARD", SHALL BE CONSTITUTED. THE BOARD SHALL BE THE GOVERNING BODY TO THE INSTITUTE. THE BOARD SHALL BE RESPONSIBLE FOR ESTABLISHING THE RESEARCH, FINANCIAL AND MANAGERIAL POLICIES OF THE INSTITUTE. THE BOARD SHALL UNCLASSIFIED

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HAVE AUTHORITY TO:

- (1) ESTABLISH REGULATIONS SETTING FORTH THE RESEARCH, FINANCIAL AND MANAGERIAL POLICIES, AND ORGANIZATION AND PROCEDURES OF THE INSTITUTE;
- (2) APPOINT AND DISMISS THE EXECUTIVE DIRECTOR AND SUCH OTHER PRINCIPAL OFFICERS AS THE BOARD MAY DEEM EXPEDIENT;
- (3) APPROVE THE ANNUAL BUDGET AND RESEARCH PROGRAM OF THE INSTITUTE;
- (4) ACCEPT CONTRIBUTIONS OF PROPERTY, FUNDS OR SERVICES;
- (5) REPRESENT THE INSTITUTE, ACTING THROUGH ITS CHAIRMAN, IN RELATIONS WITH THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF JAPAN, AND
- 6) EXERCISE ANY OTHER POWER POSSESSED BY THE INSTITUTE NOT OTHERWISE ASSIGNED BY THIS AGREEMENT.

B. THE BOARD SHALL CONSIST OF TEN MEMBERS. FIVE OF THESE SHALL BE CITIZENS OF THE UNITED STATES WHO SHALL BE APPOINTED BY AND SERVE AT THE DISCRETION OF THE GOVERNMENT OF THE UNITED STATES. FIVE OF THESE SHALL BE CITIZENS OF JAPAN WHO SHALL BE APPOINTED BY AND SERVE AT THE DISCRETION OF THE GOVERNMENT OF JAPAN.

C. THE TWO GOVERNMENTS SHALL ALSO APPOINT ALTERNATES, WHO SHALL ATTEND MEETINGS AND ACT IN THE PLACE OF MEMBERS

IF THE NEED ARISES. THE ALTERNATES SHALL BE CITIZENS OF THE UNITED STATES OR JAPAN, AS THE CASE MAY BE, AND SHALL SERVE AT THE DISCRETION OF THE APPOINTING GOVERNMENT.

D. A CHAIRMAN AND VICE CHAIRMAN OF THE BOARD SHALL BE ELECTED FROM AND BY THE MEMBERS. THE CHAIRMANSHIP AND VICE CHAIRMANSHIP SHALL NOT BE HELD IN ANY YEAR BY CITIZENS OF THE SAME COUNTRY, AND EACH POSITION SHALL ALTERNATE ON AN ANNUAL BASIS BETWEEN A UNITED STATES MEMBER AND A JAPANESE MEMBER. THE MEMBERS OF THE BOARD SHALL SERVE FOR FOUR YEARS AND MAY BE REAPPOINTED, EXCEPT THAT TWO OF THE INITIAL FIVE MEMBERS FROM EACH COUNTRY SHALL BE APPOINTED FOR TWO YEARS. IN THE EVENT ANY VACANCY OCCURS BY REASON OF DEATH, RESIGNATION OR OTHERWISE, APPOINTMENTS MAY BE MADE AS PROVIDED FOR IN PARAGRAPH B ABOVE.

E. THE BOARD OF GOVERNORS SHALL NORMALLY MEET TWICE A YEAR AT THE HEADQUARTERS OF THE INSTITUTE, BUT MEETINGS OF THE BOARD MAY BE HELD AT SUCH TIME AND PLACE AS THE BOARD MAY FROM TIME TO TIME DETERMINE.

F. THE BOARD SHALL MAKE DECISIONS BY AFFIRMATIVE VOTE
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OF AT LEAST SEVEN MEMBERS OF THE BOARD. A QUORUM OF THE BOARD FOR THE TRANSACTION OF BUSINESS SHALL BE SEVEN MEMBERS.

G. THE BOARD SHALL KEEP MEETINGS OF ITS MEETINGS. THESE MINUTES SHALL RECORD THE SUBJECTS DISCUSSED, THE DECISIONS TAKEN AND THE VOTES ON SUCH DECISIONS.

H. THE BOARD MAY ESTABLISH SPECIAL COMMITTEES TO CONSIDER AND REPORT ON SPECIAL SUBJECTS.

I. MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, BUT THE BOARD MAY AUTHORIZE PAYMENTS OF THE NECESSARY EXPENSES OF MEMBERS IN ATTENDING MEETINGS OF THE BOARD AND IN PERFORMING OTHER OFFICIAL DUTIES.

J. THE BOARD SHALL PROVIDE FOR ANNUAL AUDITS OF THE ACCOUNTS OF THE INSTITUTE BY INDEPENDENT AUDITORS FOR SUBMISSION TO BOTH GOVERNMENTS.

ARTICLE V

SCIENCE ADVISORY COMMITTEE

A SCIENCE ADVISORY COMMITTEE CONSISTING OF PERSONS DESIGNATED BY BOTH GOVERNMENTS SHALL BE ESTABLISHED. THE COMMITTEE SHALL REVIEW SCIENCE PROGRAMS OF THE INSTITUTE AND MAKE REPORTS THEREON TO THE GOVERNMENTS AND TO THE BOARD. THE BOARD MAY SUBMIT NOMINATIONS TO THE GOVERNMENTS FOR MEMBERSHIP ON THE COMMITTEE.

ARTICLE VI

EXECUTIVE COMMITTEE

AN EXECUTIVE COMMITTEE SHALL BE ESTABLISHED TO ACT BETWEEN MEETINGS OF THE BOARD AND EXERCISE SUCH POWERS AS THE BOARD MAY DELEGATE TO IT. THE EXECUTIVE COMMITTEE SHALL CONSIST OF FOUR MEMBERS OF THE BOARD, NAMELY, THE CHAIRMAN,

THE VICE CHAIRMAN, ONE MEMBER DESIGNATED BY THE GOVERNMENT OF THE U.S. AND ONE MEMBER DESIGNATED BY THE GOVERNMENT OF JAPAN. THE CHAIRMAN OF THE BOARD OF GOVERNORS SHALL SERVE AS THE CHAIRMAN OF THE EXECUTIVE COMMITTEE. THE EXECUTIVE COMMITTEE SHALL MAKE DECISIONS BY UNANIMOUS VOTE OF ITS FOUR MEMBERS.

ARTICLE VII
EXECUTIVE DIRECTOR

A. THE EXECUTIVE DIRECTOR SHALL BE THE CHIEF EXECUTIVE
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OFFICER OF THE INSTITUTE. THE EXECUTIVE DIRECTOR SHALL BE RESPONSIBLE FOR THE OPERATIONS AND STAFFING OF THE INSTITUTE. HE SHALL ACT IN ACCORDANCE WITH THE DIRECTIVES, REGULATIONS AND DELEGATIONS OF THE BOARD.

B. THE EXECUTIVE DIRECTOR SHALL BE A PERSON OF OUTSTANDING ABILITY, PROMINENT AS A SCIENTIST AND ADMINISTRATOR. HE SHALL BE APPOINTED BY THE BOARD UPON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE BOARD MEMBERS OF EACH GOVERNMENT UNDER A CONTRACT FOR THREE YEARS SUBJECT TO RENEWAL, UNDER SUCH TERMS AND CONDITIONS AS MAY BE DETERMINED BY THE BOARD.

C. THE EXECUTIVE DIRECTOR SHALL EX OFFICIO ATTEND ALL MEETINGS OF THE BOARD, EXCEPT MEETINGS WHICH CONCERN HIS PERSONAL POSITION.

D. THE EXECUTIVE DIRECTOR SHALL PREPARE AND SUBMIT TO THE BOARD FOR APPROVAL, SIXTY DAYS BEFORE THE FIRST MEETING OF THE YEAR, A PROPOSED ANNUAL BUDGET OF THE INSTITUTE, INCLUDING HIS PROPOSALS FOR THE RESEARCH PROGRAM. THE EXECUTIVE DIRECTOR SHALL TAKE ACTION TO IMPLEMENT ANY DECISION OF THE BOARD TAKEN THEREON.

E. THE EXECUTIVE DIRECTOR SHALL PREPARE AND SUBMIT TO THE BOARD A PROPOSED ANNUAL REPORT, INCLUDING A FINANCIAL STATEMENT AND A RECORD OF THE ACTIVITIES OF THE INSTITUTE, FOR THE APPROVAL OF THE BOARD.

F. THE EXECUTIVE DIRECTOR SHALL MAINTAIN AN APPROPRIATE SYSTEM OF INTERNAL CONTROL, INCLUDING OFFICIAL BOOKS AND RECORDS SUFFICIENT TO REFLECT ACCURATELY THE TRANSACTIONS OF THE INSTITUTE AND TO SHOW CURRENTLY THE FINANCIAL CONDITION OF THE INSTITUTE, AND AN ADEQUATE SYSTEM OF INTERNAL AUDIT. THE BOOKS AND RECORDS AND INTERNAL AUDIT REPORTS SHALL BE AVAILABLE FOR REVIEW BY AUTHORIZED REPRESENTATIVES OF BOTH GOVERNMENTS.

G. THERE SHALL BE A DEPUTY EXECUTIVE DIRECTOR WHOSE QUALIFICATIONS AND APPOINTMENT SHALL BE SIMILAR TO THOSE OF THE EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR AND THE DEPUTY EXECUTIVE DIRECTOR SHALL BE CITIZENS OF THE U.S. OR JAPAN, BUT THE POSITIONS SHALL NOT BE HELD BY CITIZENS OF THE SAME COUNTRY AT THE SAME TIME.

ARTICLE VIII

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STAFF

THE QUALIFICATIONS, TERMS OF APPOINTMENT AND CAUSES FOR DISMISSAL OF THE PROFESSIONAL AND ADMINISTRATIVE PERSONNEL SHALL BE ESTABLISHED BY REGULATIONS ISSUED BY THE BOARD. THE STAFF SHALL INCLUDE CITIZENS OF THE U.S. AND JAPAN AND MAY INCLUDE CITIZENS OF OTHER COUNTRIES AS APPROPRIATE.

ARTICLE IX

EXECUTIVE AGENT

THE EXECUTIVE AGENT RESPONSIBLE FOR CARRYING OUT THE OBLIGATIONS OF THE UNITED STATES GOVERNMENT UNDER THIS AGREEMENT AND FOR RELATIONS WITH THE INSTITUTE SHALL BE THE UNITED STATES ATOMIC ENERGY COMMISSION. THE EXECUTIVE AGENT, RESPONSIBLE FOR CARRYING OUT THE OBLIGATIONS OF THE JAPANESE GOVERNMENT UNDER THIS AGREEMENT AND FOR RELATIONS WITH THE INSTITUTE SHALL BE THE

ARTICLE X

PUBLICATION

THE RESULTS OF RESEARCH ENGAGED IN UNDER THIS AGREEMENT SHALL BE MADE AVAILABLE TO THE WORLD SCIENTIFIC COMMUNITY THROUGH UNCLASSIFIED REPORTS AND THE OPEN SCIENTIFIC LITERATURE. ALL REPORTS AND PUBLICATIONS SHALL BE PREPARED IN JAPANESE AND ENGLISH LANGUAGES. THE PROTECTION OF PATENTS AND COPYRIGHTS SHALL BE THE SUBJECT OF REGULATIONS ESTABLISHED BY THE BOARD.

ARTICLE XI

FINANCIAL ARRANGEMENTS

A. EACH GOVERNMENT SHALL CONTRIBUTE EQUALLY TO THE INSTITUTE TO SUPPORT ITS ANNUAL OPERATIONS.

B. THE OBLIGATIONS OF THE GOVERNMENTS TO MAKE CONTRIBUTIONS SHALL BE SUBJECT TO THE AVAILABILITY OF APPROPRIATED FUNDS.

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C. THE BOARD SHALL APPROVE AN ANNUAL BUDGET. THE CHAIRMAN OF THE BOARD SHALL FORWARD SUCH BUDGET TO THE TWO GOVERNMENTS. IF THE GOVERNMENTS, AFTER CONSULTATION, AGREE ON SUCH BUDGET, THEY SHALL SEEK APPROPRIATIONS TO COVER THEIR RESPECTIVE SHARES.

D. IN ORDER TO BALANCE OUT THE CAPITAL ASSETS CONTRIBUTIONS OF THE GOVERNMENT OF THE UNITED STATES TO THE INSTITUTE, NAMELY, THE BUILDINGS AT HIROSHIMA, AN ADDITION TO A BUILDING AT NAGASAKI AND CAPITAL EQUIPMENT INCLUDING A COMPUTER (ALL OF WHICH BUILDINGS AND CAPITAL EQUIPMENT ARE MORE PARTICULARLY IDENTIFIED IN THE PROPERTY INVENTORY MAINTAINED BY ABCC), THE GOVERNMENT OF JAPAN WILL:

- (1) CONTINUE TO MAKE AVAILABLE FREE OF CHARGE THE LAND ON WHICH THE HIROSHIMA LABORATORY IS LOCATED;
- (2) DEFRAY THE RENT FOR USE OF THE BUILDING IN WHICH THE NAGASAKI LABORATORY IS LOCATED;
- (3) REFURBISH THE PRESENT LABORATORY BUILDINGS IF THE BOARD DETERMINS THAT THIS IS DESIRABLE;
- (4) CONSTRUCT A NEW LABORATORY BUILDING, IF THE BOARD DETERMINS THAT SUCH A BUILDING IS DESIRABLE, AND PROVIDE SUCH BUILDING FREE OF CHARGE TO THE INSTITUTE; AND
- (5) REPLACE THE PRESENT COMPUTER WHEN THE BOARD DETERMINS THAT THIS IS DESIRABLE.

E. THE GOVERNMENT OF JAPAN SHALL PERMIT THE INSTITUTE TO EXCHANGE JAPANESE YEN FOR CONVERTIBLE CURRENCY REQUIRED FOR THE EXPENSES OUTSIDE JAPAN OF THE INSTITUTE AND ITS RESEARCH PROGRAM.

ARTICLE XII

EXEMPTIONS

A. THE ACTIVITIES AND PROPERTY OF THE INSTITUTE SHALL BE EXEMPT FROM TAXATION.
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B. UNITED STATES CITIZENS EMPLOYED BY THE INSTITUTE IN JAPAN OR ENGAGED IN RESEARCH IN JAPAN UNDER THIS AGREEMENT, NOT PERMANENT RESIDENTS OF JAPAN, SHALL BE EXEMPT FROM JAPANESE INCOME TAXES ON INCOME DERIVED FROM THE INSTITUTE.

C. IF PROBLEMS DEVELOP BY REASON OF THE APPLICATION OF JAPANESE LAW, INCLUDING TAX LAW, THE GOVERNMENT OF THE U.S. AND THE GOVERNMENT OF JAPAN WILL CONSULT WITH A VIEW TO TAKING SUCH ACTION AS MAY BE MUTUALLY AGREED TO PROVIDE A SOLUTION.

ARTICLE XIII

PRIVILEGES

U.S. CITIZENS EMPLOYED BY THE INSTITUTE IN JAPAN SHALL ENJOY
ACCESS TO U.S. GOVT. OPERATED FACILITIES IN JAPAN.

ARTICLE XIV

ENTRY INTO FORCE AND DURATION

A. THIS AGREEMENT SHALL ENTER INTO FORCE ON SIGNATURE AND SHALL
REMAIN IN FORCE FOR TWENTY-FIVE (25) YEARS, SUBJECT TO PRIOR
TERMINATION BY MUTUAL WRITTEN AGREEMENT OR AT FIVE(5) YEAR
PERIODS ON NOTICE IN WRITING GIVEN BY EITHER GOVERNMENT TO
THE OTHER GOVERNMENT ONE YEAR PRIOR TO THE END OF A FIVE YEAR
PERIOD.

B. IN THE EVENT OF TERMINATION OF THIS AGREEMENT, THE PROPERTY
OF THE INSTITUTE SHALL BE SOLD AND THE SALES PROCEEDS AND ANY
OTHER ASSETS AND FUNDS OF THE INSTITUTE SHALL, AFTER PAYMENT OF
ALL OBLIGATIONS, BE DIVIDED EQUALLY BETWEEN THE TWO GOVERNMENTS;
PROVIDED, HOWEVER, THAT IF TERMINATION OCCURS IN THE TENTH YEAR
OR EARLIER, THE GOVERNMENT OF THE UNITED STATES SHALL BE
ENTITLED TO A LARGER PROPORTION AS MAY BE DETERMINED TO BE
EQUITABLE BY THE TWO GOVERNMENTS, TAKING INTO ACCOUNT THE CAPITAL
ASSETS CONTRIBUTIONS MADE BY THE GOVERNMENT OF THE UNITED
STATES UNDER PARAGRAPH C OF ARTICLE I AND PARAGRAPH D OF
ARTICLE XI, ABOVE. ANY COPYRIGHTS, PATENTS, RECORDS OR
DOCUMENTS OF THE INSTITUTE SHALL BE DISPOSED OF AS THE TWO
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GOVERNMENTS MAY AGREE.

DONE, IN DUPLICATE IN THE ENGLISH AND JAPANESE LANGUAGES,
BOTH TEXTS BEING EQUALLY AUTHENTIC, AT , THIS DAY
OF , 1974.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

.....

FOR THE GOVERNMENT OF JAPAN

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<< END OF DOCUMENT >>

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